

NOTICE

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2015 IL App (4th) 130573-U

NO. 4-13-0573

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

June 10, 2015
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from
Plaintiff-Appellee,)	Circuit Court of
v.)	Sangamon County
RYAN M. ROBERSON,)	No. 10CF217
Defendant-Appellant.)	Honorable
)	Peter C. Cavanagh,
)	Judge Presiding.

PRESIDING JUSTICE POPE delivered the judgment of the court.
Justices Turner and Harris concurred in the judgment.

ORDER

¶ 1 *Held:* We vacate fines improperly imposed by the circuit clerk and remand for the trial court to impose all mandatory fines in effect at the time of the offense and to give statutory credit against creditable fines.

¶ 2 In July 2012, defendant, Ryan M. Roberson, filed a *pro se* postconviction petition. In May 2013, the State filed a motion to dismiss defendant's postconviction petition, which was granted. Defendant appeals, arguing (1) the circuit clerk improperly imposed fines, (2) the trial court failed to impose additional mandatory fines, and (3) the trial court failed to give statutory credit against creditable fines. We agree and vacate fines improperly imposed and remand with directions.

¶ 3 I. BACKGROUND

¶ 4 In August 2010, a jury convicted defendant of aggravated battery with a deadly weapon (720 ILCS 5/12-4(b)(1) (West Supp. 2009) (eff. Aug. 13, 2009)) and aggravated battery

causing great bodily harm or permanent disfigurement (720 ILCS 5/12-4(a) (West Supp. 2009) (eff. Aug. 13, 2009)) for an offense committed in April 2010. In November 2010, the trial court merged both counts and sentenced defendant to 8 years' imprisonment, with credit for 209 days served in custody, and directed the circuit clerk to enter judgment against defendant for court costs. The court did not impose fines as part of defendant's sentence.

¶ 5 The Sangamon County circuit clerk's payment-set-up form was included in the record on appeal. It indicates the following fines were imposed: (1) \$50 court-systems fine (55 ILCS 5/5-1101(c)(1) (West Supp. 2009) (eff. Aug. 11, 2009)); (2) \$25 violent-crime-victims-assistance (VCVA) fine (725 ILCS 240/10(c)(1) (West 2010) (eff. Jan. 1, 2010)); (3) \$5 children's-advocacy-center fine (55 ILCS 5/5-1101(f-5) (West Supp. 2009) (eff. Aug. 11, 2009)); and (4) \$15 state-police-operations-assistance-fund fine (705 ILCS 105/27.3a(1.5), (5) (West 2010) (eff. July 13, 2010)).

¶ 6 Defendant filed a direct appeal, and this court affirmed. *People v. Roberson*, 2012 IL App (4th) 100974-U, ¶ 32.

¶ 7 In July 2012, defendant filed a *pro se* postconviction petition, alleging claims of ineffective assistance of counsel, and a motion for appointment of counsel. In October 2012, the trial court appointed counsel to represent defendant.

¶ 8 In March 2013, counsel filed a motion for leave to withdraw as counsel, alleging no meritorious issues could be argued. Following an April 2013 hearing, the trial court granted counsel's motion.

¶ 9 In May 2013, the State filed a motion to dismiss defendant's postconviction petition. Following a June 2013 hearing, the trial court granted the State's motion.

¶ 10 This appeal followed.

¶ 11

II. ANALYSIS

¶ 12 On appeal, defendant argues, and the State concedes, this court should vacate fines improperly imposed by the circuit clerk and remand to the trial court for those fines to be recalculated and reimposed. Defendant further argues, and the State concedes, the \$15 state-police-operations-assistance-fund fine should be vacated. Both the State and defendant present additional mandatory fines the trial court failed to impose. Finally, defendant argues, and the State concedes, he is entitled to statutory credit against creditable fines. We agree with defendant and accept the State's concessions.

¶ 13 We vacate the following fines imposed by the circuit clerk: (1) \$50 court-systems fine (55 ILCS 5/5-1101(c)(1) (West Supp. 2009) (eff. Aug. 11, 2009)); (2) \$25 VCVA fine (725 ILCS 240/10(c)(1) (West 2010) (eff. Jan. 1, 2010)); and (3) \$5 children's-advocacy-center fine (55 ILCS 5/5-1101(f-5) (West Supp. 2009) (eff. Aug. 11, 2009)). See *People v. Ackerman*, 2014 IL App (3d) 120585, ¶¶ 28-31, 10 N.E.3d 470; *People v. Smith*, 2014 IL App (4th) 121118, ¶¶ 63-65, 18 N.E.3d 912; *People v. Jones*, 397 Ill. App. 3d 651, 660, 921 N.E.2d 768, 775 (2009). We order the trial court to recalculate and reimpose these fines on remand. (We note on remand the trial court should apply subsection 10(b) of the VCVA (725 ILCS 240/10(b) (West 2010) (eff. Jan. 1, 2010)), rather than subsection 10(c), as other fines are being imposed.)

¶ 14 We also vacate the \$15 state-police-operations-assistance-fund fine (705 ILCS 105/27.3a(1.5), (5) (West 2010) (eff. July 13, 2010)). As this fine did not take effect until after the date of the offense (April 2010), it should *not* be reimposed on remand. See *People v. Devine*, 2012 IL App (4th) 101028, ¶ 10, 976 N.E.2d 624.

¶ 15 We further order the trial court to impose all mandatory fines in effect at the time of the offense (April 2010), including (1) \$30 juvenile-expungement fine (730 ILCS 5/5-9-

1.17(a) (West Supp. 2009) (eff. Jan. 1, 2010)), (2) lump-sum-surcharge fine (730 ILCS 5/5-9-1(c) (West 2010) (eff. July 1, 2009)), and (3) \$10 medical-costs-fund fine (730 ILCS 125/17 (West 2008) (eff. Aug. 15, 2008)).

¶ 16 Last, we order the trial court to calculate and apply statutory credit against creditable fines. See 725 ILCS 5/110-14(a) (West 2010) (eff. Jan. 1, 2005).

¶ 17 III. CONCLUSION

¶ 18 For the reasons stated, we vacate those fines improperly imposed and remand for the trial court to impose all mandatory fines in effect at the time of the offense and apply statutory credit against creditable fines. To this end, we direct the State and defendant to supply the attorneys and the trial court with a copy of their briefs on remand. We otherwise affirm.

¶ 19 Vacated; cause remanded with directions.